



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,263	09/22/2005	Michel Baylot	33900-182PUS	1156
27799 7590 01/02/2008 COHEN, PONTANI, LIEBERMAN & PAVANE 551 FIFTH AVENUE SUITE 1210 NEW YORK, NY 10176			EXAMINER SWINEHART, EDWIN L	
			ART UNIT 3617	PAPER NUMBER
			MAIL DATE 01/02/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/550,263

Applicant(s)

BAYLOT, MICHEL

Examiner

Ed Swinehart

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 29-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-46 is/are rejected.
- 7) ☒ Claim(s) 47-55 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

### DETAILED ACTION

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the chain must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. Claims 47-55 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim may refer to claims in the alternative only. Claim 47 refers to both claim 1 and claim 38, and therefore also claim 29. See MPEP § 608.01(n). Accordingly, the claims not been further treated on the merits.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 29-55 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant's claimed connection element has not been disclosed to such a degree to permit one of ordinary skill in the art to make and/or use same.

Specifically, applicant claims metal blocks secured to the cable by clamping, Yet such clamping has not been disclosed so as to enable. The clamping is illustrated at the center of the weight. It is unknown how such a clamp positioned as claimed can function. What is the construction of such a clamp positioned as shown which can the clamp the block, and how it is actuated or clamped?

The claimed chain has likewise not been adequately disclosed.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 29-37 and 47-55 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 29, "cable or chain type" renders the metes and bounds difficult to determine.

In claim 30, "said fastener elements" lacks antecedent basis in the claims.

Regarding claims 31, 35 and 46, the word "preferably" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

In claim 33, the parenthetical expressions render the metes and bounds of the claim difficult to determine.

In claim 36, "said first buoyancy elements" lacks antecedent basis in the claims.

In claim 37, "second buoyancy elements" essentially lacks antecedent basis, as the first had not been positively recited.

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claim 29 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 55-74 of copending Application No. 10/550,818. Although the conflicting claims are not identical, they are not patentably distinct from each other because the current claims are fully encompassed by the '818 claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 29,30,36 and 37-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Egeberg.

Egeberg discloses the claimed invention, including a cable **18**, having a first upper end connected to a winch **22**, and a second end connected to a fastener on the bottom of **12**. As shown in figure 1, the cable is oriented such that a portion thereof hangs beneath the faster element.

Re claim 30, duplication of existing elements cannot be considered a patentable distinction in the art.

Re claim 36, the “buoyancy elements” as originally recited are an optional element, And therefore accorded no weight in the claim(s).

Re claim 37, since the second buoyancy elements are recited in relation to the first, which are optional, such are considered as optional as well.

Re claim 38, the steps as recited are inherent. Re lines 7-12, such are not method limitations, and are accorded no weight in the claims.

Re claims 39-44, such is apparatus, carrying no weight in the method claim.

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Egeberg in view of Söderberg.

Egeberg employs a weighted chain **17**, and therefore fails to show clamped weights as claimed.

Söderberg teaches provision of a weighted anchor line, which is constructed of clump weights clamped to a cable. Such is considered an equivalent to the chain **17** of Egeberg.

It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute a length of weighted cable for the chain of Egeberg as taught by Söderberg.

Such a combination would have been desirable so as to provide for ease in construction and replacement of damaged weights.

Re claims 32 and 33, the claim minimum radius, and the ability of the weights to contact each other are considered inherency.

13. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Egeberg in view of Söderberg as applied to claim 31 above, and further in view of Poppe.

Egeberg fails to show weights as claimed.

Poppe teaches cylindrical weights with frustoconical ends. Such may be spaced so as to contact each other.

It would have been obvious to one of ordinary skill in the art at the time of the invention to shape the weights of Egeberg as taught by Poppe.

Such a combination would have been desirable so as to provide an aesthetically pleasing shape.

14. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Egeberg in view of Bosgiraud et al.

Egeberg fails to disclose a chain as claimed.

Bosgiraud et al. teaches chain links which may possess varying degrees of buoyancy.

It would have been obvious to one of ordinary skill in the art at the time of the invention to construct the chain of Egeberg as taught by Bosgiraud et al.

Such a combination would have been desirable so as to provide the user with the option of setting buoyancy of the chain as desired.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Swinehart whose telephone number is 571-272-



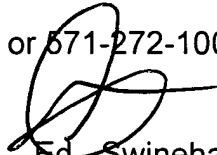
Application/Control Number:  
10/550,263  
Art Unit: 3617

Page 8

6688. The examiner can normally be reached on Monday through Thursday 6:30 am to 2:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ed Swinehart  
Primary Examiner  
Art Unit 3617